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Adequate housing as a component of the right to an adequate standard of living

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Leilani Farha, submitted pursuant to Human Rights Council resolutions 15/8 and 31/9.

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Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Summary

The fiftieth anniversary of the adoption of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights provides an important opportunity to reflect on the impact of dividing the unified rights in the Universal Declaration of Human Rights into two categories. Of particular importance was the choice to separate the right to life from the right to adequate housing.

The right to life does not actually belong to one or the other category of human rights. Lived experience illustrates that the right to life cannot be separated from the right to a secure place to live, and the right to a secure place to live only has meaning in the context of a right to live in dignity and security, free of violence.

The right to adequate housing is too frequently disconnected from the right to life and core human rights values, treated more as a policy aspiration than as a fundamental right which demands timely rights-based responses and access to justice.

Violations of the right to life have been addressed primarily in cases where direct action or deliberate omissions by States have deprived or threatened to deprive individuals of life. The failure of States to address systemic deprivations of the right to life tied to poverty, grossly inadequate housing and homelessness have not received the same attention. The urgency and outrage that should be provoked in response to the conditions in which millions of people are forced to live seem to have gone missing; so too has the political will to address those conditions.

Relying on emerging jurisprudence in domestic, regional and international human rights law, responding to the lived experience of rights holders, international human rights mechanisms, States, domestic courts, civil society and the media are well placed to bring forward an integrated understanding of the right to life. Now is the time to reunify these two rights so that homelessness and grossly inadequate housing are seen and addressed as unacceptable violations of the right to housing and the right to life.

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I. Introduction

1. The present report of the Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, is submitted pursuant to Human Rights Council resolutions 15/8 and 31/9. The right to life is recognized as the "supreme" human right, the protection of which is required for the realization of all other human rights.[1] Despite this centrality, and the fact that millions of marginalized individuals and groups experience dire housing conditions that threaten their right to life, the applicability of the right to life to the right to adequate housing has yet to receive much attention from the international human rights community.

2. The present report is intended to contribute to a sorely needed discussion of the relevance and importance of the right to life for those living in grossly inadequate housing conditions and for those who are homeless. The report is timely and reflects on experiences of the mandate to date.[2]

3. The fiftieth anniversary of the adoption of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights provides an important opportunity to reflect on the impact of the division into two categories of what are unified rights in the Universal Declaration of Human Rights. Of particular importance was the choice to place the right to life in only one of the covenants: the International Covenant on Civil and Political Rights. The right to life does not actually belong to one or the other category of human rights, civil and political or economic, social and cultural. It has dimensions of both. One can be deprived of life by acts of States such as extrajudicial killings, but equally by being deprived of access to food, water, sanitation and a safe and secure place to live. The Charter of the United Nations and the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in 1993, reference this holistic understanding of human rights, recognizing not just the interdependence and indivisibility of rights, but also the clear connection between a dignified life and the realization of all human rights.

4. The decision made 50 years ago to place this core, overarching right in only one of the covenants created a dilemma: should the right to life in article 6 of the International Covenant on Civil and Political Rights be severed from its critical economic, social and cultural rights dimensions? Should violations of the right to life be restricted to situations of deliberate or preventable infliction of death, such as through a death penalty, murder or infanticide? Or should violations that result from State neglect be considered of equal importance, violations, for example, resulting from failure to take reasonable measures to ensure access to food, housing, water and other necessities of life? Answers to these questions have implications that go far beyond the interpretation of rights in the two covenants. They have significant consequences for people whose right to life has been threatened by homelessness or inadequate housing, and for the way in which States and other actors respond to their plight.

[1] Human Rights Committee, general comment, No. 6 (1982), para. 1.

[2] The Special Rapporteur is grateful for all the contributions and inputs received for the preparation of the report, which are available from www.ohchr.org/EN/Issues/Housing/Pages/RighttoLifeRighttoAdequateHousing.aspx.

5. The relationship of the right to life and the right to adequate housing has emerged as central to the work of the mandate holder. The right to adequate housing is too frequently disconnected from the human rights values which form its core, and is treated more as a socioeconomic policy aspiration than as a fundamental right which demands effective, rights-based responses and timely access to justice.

6. Official missions and working visits, in both affluent and emerging economies, have provided the Special Rapporteur with an opportunity to meet people of all ages who are homeless, living on sidewalks, in parks, cars and abandoned buildings, in shelters, collective centres, container settlements, institutions and relocation sites, and in informal settlements. Many are forced to live in overcrowded conditions, without running water or electricity, amid excrement and garbage, without adequate protection from inclement weather, with no bed to lie on, little food to eat and nowhere to wash or defecate; often threatened by violence, insecurity and stigmatization and, worst of all, forced to watch children suffer and frequently die from prolonged diarrhoea and other effects of life without adequate water, sanitation or housing. All are hanging on by the thinnest thread, clinging to life, dignity and humanity, and often lacking any form of social protection.

7. When these same conditions are brought to light in the context of prisons and detention centres, there is no question that they are to be considered critical human rights violations demanding action. When they are raised as violations of the right to adequate housing, on the other hand, there is little sense of urgency or outrage and, rather than being addressed as egregious human rights concerns requiring concerted attention, they are relegated to discussions on infrastructure and sustainable development.

8. People who are homeless or living in inadequate housing describe their experiences in terms of their struggle for dignity and life: that is how they articulate their claim to human rights. They draw no artificial boundaries between their living conditions and what they consider human rights violations. They report that they are not treated as human beings, that whether they are alive or dead is of little significance to government officials, that they are considered "expendable". They experience being forgotten and neglected by governments, left to struggle in intolerable circumstances, as no less a violation of human rights than direct government action. A proper response to these living conditions requires openness not just to claims for the right to adequate housing, but also to more central claims to the right to life. These claims, however, have not been fully heard by the international human rights community.

9. The highest United Nations officials rarely point to widespread homelessness and inadequate housing as a human rights crisis demanding priority attention. The Human Rights Committee has yet to consider whether failing to take positive measures to address homelessness constitutes a violation of the right to life. Habitat III, the third United Nations Conference on Housing and Sustainable Development, failed to identify systemic violations of the right to life and the right to adequate housing as key issues; and domestic courts and human rights bodies rarely engage with governments about their obligations to adopt effective strategies to address and eliminate homelessness and intolerable living conditions as enforceable human rights obligations.

10. On missions, the Special Rapporteur has found that there is a distinct contrast between the way in which deprivations of the right to housing are described by

rights holders in communities and the way they are discussed in meetings with government officials. Those who live in grossly inadequate housing or who are homeless experience these deprivations as assaults on their dignity and rights, while government officials view housing as one among many programme demands competing with highways and sports stadiums for budgetary allocations, assessed by the numbers of housing units or toilets provided, often without meaningful engagement with the lives of those affected. Effective responses to inadequate housing and homelessness as human rights violations require recognition that housing policies and programmes are the means through which the fundamental right to a dignified and secure life is ensured.

II. Unearthing the connections: life, security, dignity and housing

11. An estimated one third of deaths worldwide are linked to poverty and inadequate housing[3] and the immense impact of substandard housing and homelessness on the rights to life, security and dignity for the most vulnerable populations is undeniable. The following examples, focusing on the lived experiences of particular groups in particular circumstances, offer a deeper understanding of the intersections between the right to housing and the right to life.

A. Homelessness

12. For anyone who is homeless or street involved, living in security and dignity is near impossible. The death rate among homeless people ranges from two to ten times higher than for those who are not homeless.[4] In eight states in India, between 2010 and 2016, approximately 24,000 homeless people died as a result of their living conditions, such as from infectious diseases, road accidents, and exposure to the elements.[5] The interim findings of a study undertaken in the United Kingdom of Great Britain and Northern Ireland, for example, showed that homeless women can expect to live for just 43 years, compared to 80 years for women in the general population.[6]

13. Homeless people are subject to constant intimidation, discrimination and harassment; they are denied access to places to shower, urinate, defecate or eat; they are rounded up and forced out of cities and relocated to remote locations where no one wants to live; and they are subject to extreme forms of violence (A/HRC/31/54, para. 21). Homeless women often have their children taken away from them by government officials on the basis that they cannot provide them with a life of security and dignity.[7]

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[3] Anne-Emanuelle Birn, "Addressing the societal determinants of health: the key global health ethics imperative of our times", in Solomon Benatar and Gillian Brock, eds., *Global Health and Global Health Ethics* (Cambridge, United Kingdom of Great Britain and Northern Ireland, Cambridge University Press, 2011), para. 43.

[4] Ibid., para. 41.

[5] Submission by the Housing Rights and Land Network for the present report.

[6] Crisis, "Homelessness: a silent killer; a research briefing on mortality amongst homeless people", December 2011.

[7] *Women and the Right to Adequate Housing* (United Nations publication, Sales No. E.11.XIV.4).

14. The most recent estimates available indicate there may be 100 million children living in the streets.[8] This is the result of dire situations: abuse at home, extreme poverty, family break-up, and displacement or homelessness. They live perilous lives under a constant threat of violence from the public as well as from police authorities. They are malnourished, have no access to sanitation facilities and often sleep rough. Their vulnerability to sexual exploitation brings with it many threats to life, including sexually transmitted diseases.[9] The indignity and suffering that homeless people and street connected children experience in their daily lives cannot be overestimated. In several studies, children in street situations express a grave bleakness about their lives, indicating that they feel they have no future at all.[10]

B. Informal settlements

15. The failure of States to address conditions in informal settlements creates multiple threats to life, dignity and security. Accidents are routine. Fires break out as a result of unauthorized electrical connections, of cooking on open flames indoors or of the use of highly flammable construction materials such as cardboard and plastics. Settlements are commonly built on treacherous land. Simple accidents become fatal when emergency services either cannot reach the site or are unwilling to enter the site.

16. Water- and sanitation-related illnesses kill over 840,000 people globally each year, a disproportionate number of whom are children under the age of 5.[11] This includes deaths from diarrhoeal disease caused by unsafe drinking water, inadequate water for hygiene and lack of adequate sanitation.[12] Neglected tropical diseases, such as rabies, dengue fever and Chagas disease, prevail in circumstances of inadequate sanitation and exposure to insects, domestic animals and livestock.[13] Cholera, caused by bacteria spread from food or water contaminated by human

[8] United Nations Children's Fund (UNICEF), *The State of the World's Children 2006* (New York, 2006).

[9] See, for example, Md Jasim Uddin and others, "Vulnerability of Bangladeshi street children to HIV/AIDS: a qualitative study", *BMC Public Health*, vol. 14, No. 1151 (2014). Available from http://bmcpublichealth.biomedcentral.com/articles/10.1186/1471-2458-14-1151.

[10] UNICEF, "A study on street children in Zimbabwe", 2001, available from www.unicef.org/evaldatabase/index_14411.html.

[11] Annette Prüss-Ustün and others, "Burden of disease from inadequate water, sanitation and hygiene in low- and middle-income settings: a retrospective analysis of data from 145 countries", *Tropical Medicine & International Health*, vol. 19, Issue 8 (August 2014), available from www.ncbi.nlm.nih.gov/pmc/articles/PMC4255749/.

[12] See World Health Organization (WHO) and UNICEF, *Progress on Sanitation and Drinking Water: 2015 Update and MDG Assessment* (Geneva, 2015). See also Annette Prüss-Ustün and others, "Burden of disease from inadequate water, sanitation and hygiene in low- and middle-income settings: a retrospective analysis of data from 145 countries", *Tropical Medicine and International Health*, vol. 19, No. 8 (August 2014), available from www.ncbi.nlm.nih.gov/pmc/articles/PMC4255749/.

[13] Over a billion people in 149 countries affected by neglected tropical diseases, see WHO, *Health in 2015, from MDGs to SDGs* (Geneva, 2015).

faeces is also commonplace and, without adequate, rapid and effective health care within a few hours, can cause death.[14]

C. Migration

17. There are approximately 232 million international migrants (Department of Economic and Social Affairs of the United Nations, 2013) and 740 million internal migrants (United Nations Development Programme, 2009) in the world today.[15] In many instances, migrants face discrimination and social exclusion in new communities, denying them access to a secure place to live. Migrants find themselves living in "first generation" informal settlements made up predominantly of recent arrivals, particularly in rapidly growing cities and megacities. These settlements tend to have the most deplorable conditions, lacking any official recognition by State authorities. Residents can be found living on a long-term basis in tents or other non-durable housing, with the constant threat of eviction, without adequate access to food or livelihoods and without any basic services, including water, sanitation, electricity and garbage collection. In Accra, Ghana, for example, a study revealed that 94 per cent of migrants in a settlement did not have toilet facilities.[16]

18. Migrants constitute the majority of construction workers for mega-sporting event projects, tending to live in labour camps with deplorable conditions, at the mercy of private contractors and developers. Amnesty International has documented the conditions in labour camps in Qatar, finding unsanitary, overcrowded accommodations subject to flooding because of poor drainage, and a lack of safety measures such as fire alarm systems or fire extinguishers. Workers have no opportunity to have their conditions redressed.[17] Migrant domestic workers have reported being forced to sleep in hallways, unprotected living spaces or closets of the homes in which they work.[18] In some developed countries public shelters have refused to accommodate migrants or will only do so for limited periods of time.[19] In these cases, migrants settle in slums, shacks and derelict or unfinished buildings.

D. Natural disasters

19. Since 2008, an average of 26.4 million people each year have been displaced by natural disasters, including mudslides, earthquakes, floods, typhoons and tsunamis. The likelihood of being displaced by a disaster today is 60 per cent higher

[14] See joint letter of allegation, case No. HTI 3/2014 and responses of 10/10/2014 and 25/11/2014, in document A/HRC/28/85; and joint letter of allegation, case No. OTH 7/2015, in document A/HRC/31/79.

[15] International Organization for Migration, *World Migration Report 2015: Migrants and Cities — New Partnerships to Manage Mobility* (Geneva, 2015).

[16] Ibid., p. 44.

[17] Amnesty International, "The ugly side of the beautiful game: exploitation of migrant workers on a Qatar 2022 World Cup site", 30 March 2016, available from www.amnesty.org/en/documents/mde22/3548/2016/en/.

[18] Human Rights Watch, "Domestic plight: how Jordanian laws, officials, employers and recruiters fail abused migrant domestic workers", 27 September 2011, available from www.hrw.org/report/2011/09/27/domestic-plight/how-jordanian-laws-officials-employers-and-recruiters-fail-abused.

[19] See joint urgent appeal, case No. NLD 1/2014, in document A/HRC/29/50.

than it was four decades ago. Not surprisingly, a key factor of vulnerability is rapid, unplanned and poorly governed urbanization.[20] The poorest and most precariously housed are disproportionately affected by natural disasters, often experiencing tragic consequences; they are also the least able to recover.

20. Post-disaster housing conditions leave security, dignity and life hanging in the balance. For example, two major earthquakes in Nepal in April/May 2015 affected a third of the country's population, damaging or destroying more than 712,000 houses and displacing over 2.6 million people. In November 2015, 200,000 households were still living in makeshift or temporary shelters, suffering without adequate food, or access to livelihoods, schools or other essential services. Monsoons and winter further compounded their acute situation. Many expressed deep concern at the absence of medium-term plans for resettlement, and fear of eviction.[21] In a post-disaster context, the destruction and lack of documentation proving land ownership or other forms of tenure mean that many, including single mothers, who are residents of informal settlements or who have complex tenure arrangements are unable to make claims to secure a place to live.[22]

E. Post-conflict situations

21. The indivisibility of the right to life and the right to housing is also heightened in situations of conflict, particularly where homes and residential areas are targeted. House demolitions, shelling and bombing in residential areas and the destruction of infrastructure (water, sewage and electricity systems, for example) are frequently used as acts of aggression in conflict situations, rendering entire areas unfit and inadequate for life. For example, in the 2014 incursion into Gaza, 160,000 housing units were destroyed or suffered major or minor damage.[23] Eighteen months after the war, the reconstruction or repair of the homes of 74 per cent of Palestinian families who were displaced had not even begun, leaving approximately 90,000 people displaced or homeless.[24]

F. Financial and housing crises

22. Unregulated real estate and land speculation, predatory mortgage lending and deregulated global flows of capital have resulted in economic crises in countries

[20] Norwegian Refugee Council and Internal Displacement Monitoring Centre, "Global estimates 2015: people displaced by disasters", 2015, p. 24.

[21] "Nepal: obstacles to protection and recovery", in Alexander Bilak and others, "Global report on internal displacement", (Geneva, Internal Displacement Monitoring Centre, 2016), available from www.internal-displacement.org/globalreport2016/.

[22] See also, reports of the former Special Rapporteur on adequate housing, A/66/270 and A/HRC/16/42.

[23] See the following from the Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: Occupied Palestinian Territory, January 2016, available from http://reliefweb.int/sites/reliefweb.int/files/resources/ocha_opt_the_humanitarian_monitor_2016_01_05_english_0.pdf, "Gaza initial rapid assessment", 27 August 2014, available from http://gaza.ochaopt.org/2015/06/key-figures-on-the-2014-hostilities/#_ftn6.

[24] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: Occupied Palestinian Territory, January 2016, available from http://reliefweb.int/sites/reliefweb.int/files/resources/ocha_opt_the_humanitarian_monitor_2016_01_05_english_0.pdf.

around the world. The real estate "bubble" of the mid-1980s to 1990 in Japan, the financial crisis in Argentina in the 2000s and the 2007 mortgage crisis in many States, including the United States of America and several States in Western Europe, have all had devastating effects on low-income and poor households.

23. Japan has yet to recover and continues to see ever-growing numbers of homeless people.[25] Unemployment rates tripled in a 10-year period in Argentina, resulting in a large number of households being unable to pay their mortgages, rent or utility bills.[26] In Spain, Ireland and Greece, thousands of low-income and poor individuals suffered foreclosures or debt-related evictions and were thus forced out of their homes into encampments or into overcrowded accommodation with relatives and friends, or were left homeless. In these circumstances, increased suicide rates are not uncommon. In the United States, suicides spurred by severe housing stress — evictions and foreclosures — doubled between 2005 and 2010.[27] Europe also saw a 6.5 per cent increase in suicides between 2007 and 2011.[28] In States where social programmes were made available to those affected, similar spikes in suicide rates were not seen.[29]

G. Domestic violence

24. For women and children victims of domestic violence the home ceases to be the safe haven it is meant to be and becomes the most dangerous place, in some cases leading to their death.[30] Factors such as overcrowded residences, poor habitability and lack of accessible services (water, electricity and sanitation) increase the incidence of domestic violence. Many women in such situations are unable to remove the perpetrator from the house, owing to a lack of family, community and State supports. Further, many women are prevented from leaving violent situations because alternative housing and financial supports are unavailable. Those who do manage to leave home become vulnerable to homelessness and consequently may suffer further violence.

[25] Yoshihiro Okamoto and others, "Homelessness and housing in Japan", paper prepared for the Centre for Urban and Community Studies, Toronto, Canada, June 2004, available from www.urbancentre.utoronto.ca/pdfs/housingconference/Okamoto_et_al_Homelessness_.pdf.

[26] Comisión Económica para América Latina y el Caribe and UNICEF, "Efectos de la crisis en Argentina: las políticas del Estado y sus consecuencias para la infancia", documento de difusión, November 2006, available from www.unicef.org/argentina/spanish/Efectos_Crisis_en_Argentina_-_Documento_de_Difusion.pdf.

[27] Katherine A. Fowler and others, "Increase in suicides associated with home eviction and foreclosure during the United States housing crisis: findings from 16 national violent death reporting system States, 2005-2010", *American Journal of Public Health*, vol. 105, No. 2 (February 2015).

[28] Aaron Reeves, Martin McKee and David Stuckler, "Economic suicides in the Great Recession in Europe and North America", *The British Journal of Psychiatry*, vol. 205, No. 3 (September 2014).

[29] Ibid.

[30] See Inter-American Court on Human Rights, *Maria Da Penha vs Brazil*, 2001; see also www.corteidh.or.cr/tablas/r23765.pdf.

H. Independent living and institutionalization

25. There are numerous ways in which the housing conditions of people with disabilities collide with their right to live in dignity and security and to life itself. Independent living requires that persons with disabilities have a choice as to where and how they live.[31] The failure of States to provide the supports required for independent living has meant that people with disabilities often live in deplorable conditions. They may be compelled to live with family members in circumstances of abuse or isolation, where they may be ostracized by their communities. When living in informal settlements, they often have no access to sanitation facilities, or have to use facilities without adequate supports or equipment, putting them at risk of disease.[32] For those with limited mobility, lack of adequate supports results in their being virtual prisoners, trapped in their homes, a potentially lethal situation, particularly in natural disasters and emergencies.

26. Many people with disabilities live in institutions because community supports to ensure independent living are unavailable. Many are institutionalized without their consent. Conditions in such institutions are invariably overcrowded. Residents are often prevented from having outside social or family relations and, in some cases, are forced to remain in isolation cells for long periods (see A/HRC/28/37). In some countries, such as the Republic of Moldova (see A/HRC/31/62/Add.2, paras. 48-52 and 61-72), residents are "controlled" through the use of physical restraints and the administration of large doses of psychiatric medications and tranquilizers. Some residents are forced to sleep in locked "cage beds" (hospital beds turned into small cages). Violence is commonplace. Together, these conditions heighten the risk of death.[33]

III. Human rights law: the right to life and the right to housing

27. Lived experience illustrates that adequate housing, dignity, security and life are so closely intertwined as to be essentially inseparable. The same is true in international human rights law. The right to life cannot be separated from the right to a secure place to live, and the right to a secure place to live only has meaning in the context of a right to live in dignity and security, free of violence.

28. In its general comment No. 4 on the right to adequate housing, the Committee on Economic, Social and Cultural Rights rejected definitions of adequate housing that focused on physical shelter and instead adopted a definition linked directly to the right to life. The Committee stated the following:

> The right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a

[31] See Convention on the Rights of Persons with Disabilities, art. 19.

[32] See, for example, Aime Tsinda and others, "Challenges to achieving sustainable sanitation in informal settlements of Kigali, Rwanda", *International Journal of Environmental Research and Public Health*, vol. 10, No. 12 (December 2013).

[33] Luke Clements and Janet Read, eds., *Disabled People and the Right to Life: The Protection and Violation of Disabled People's Most Basic Human Rights* (Abingdon, United Kingdom, Routledge, 2008).

roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.[34]

29. Similarly, the Human Rights Committee affirmed in its general comment No. 6 that the right to life is the "supreme right", which "should not be interpreted narrowly", and that it "cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures".[35] In periodic reviews, the Committee has noted the documented effects of homelessness on health and on life and has stated that the right to life requires the adoption of positive measures to address homelessness (see CCPR/C/79/Add.105).

30. In spite of the obvious convergence of the right to life and the right to adequate housing, the separation of these human rights in two covenants has tended to impoverish understanding of the interplay between the two rights. In order to conform with traditional notions of justiciable civil and political rights, violations of the right to life have been addressed primarily in cases where direct action or deliberate omissions by States have deprived or threatened to deprive individuals of life.

31. Failures of States to take positive measures to address systemic deprivations of the right to life tied to poverty, grossly inadequate housing and homelessness, as described in section II above, have not generally been addressed as violations. In this sense, the now rejected distinction between "first" and "second" generation rights, between justiciable rights and aspirational goals — a legacy of false dichotomies between the two covenants — has been perpetuated in the interpretation and application of the right to life as it intersects with the right to adequate housing.

32. With the assignment of the right to life to the International Covenant on Civil and Political Rights, the Human Rights Committee was charged with interpreting its universal meaning and clarifying State obligations to respect, protect and fulfil the right to life. Recent human rights treaties include the right to life as it applies to particular groups, specifically children, migrants and persons with disabilities. No doubt the interpretation of these provisions by treaty bodies will advance the understanding of the right to life in a manner that is informed by the lived experience of these different groups.[36] To date, however, only the Human Rights Committee has adopted a general comment on this right, and all of the substantive jurisprudence on the right to life at the international level adjudicating allegations of violations of the right to life has emerged from cases under the Optional Protocol to the International Covenant on Civil and Political Rights. In the light of this leading role, the Committee's jurisprudence requires considered attention.

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[34] Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991), para. 7.

[35] Human Rights Committee, general comment No. 6 (1982), paras. 1 and 5, in HRI/GEN/1/Rev.1.

[36] Convention on the Rights of the Child, art. 6, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 9, and the Convention on the Rights of Persons with Disabilities, art. 10. The committees that monitor the implementation of these conventions can advance authoritative interpretations of the right to life for particular groups. In these treaties, the right to life has been framed broadly to ensure that States' positive obligations are recognized. In addition, the Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination against Women must assess compliance with States parties' obligations to ensure the equal enjoyment of fundamental rights, including the right to life.

33. The Committee's recognition in its general comment No. 6 and in periodic reviews that the right to life requires positive measures to address homelessness and poverty stands in marked contrast with the absence of consideration of these obligations in the Committee's consideration of alleged violations under the Optional Protocol.

34. In a few cases, the Committee has considered how homelessness creates a serious threat to life, health and personal integrity for individuals in vulnerable circumstances. Surprisingly, however, the Committee has been reluctant to engage with homelessness as a violation of the right to life. Instead it has found that State action leading to homelessness may constitute cruel and inhuman treatment, contrary to article 7 of the International Covenant on Civil and Political Rights, or unlawful interference with the home, contrary to article 17. While recognizing the interdependence of civil and political rights with the right to adequate housing, the Committee has largely confined this recognition to a traditional negative rights framework of treatment, punishment or interference and has not engaged with substantive obligations to address homelessness and inadequate housing as violations of the right to life.

35. *In A.H.G v. Canada*, the Committee considered the effect of deporting A.H.G, diagnosed with paranoid schizophrenia, to Jamaica, where he would be exposed to "a great risk of deterioration of his health condition, social exclusion, isolation and homelessness" (CCPR/C/113/D/2091/2011, para. 3.2). A.H.G alleged that deportation would violate the right to life (art. 6) and the right to freedom from cruel and inhuman treatment (art. 7). The Committee received evidence of inadequate housing and support services in Jamaica for persons with psychosocial disabilities and, tragically, after being deported, the author did in fact become homeless, living in an "open dump" (ibid., para. 5.8). Yet the Committee found the claim of a violation of the right to life "insufficiently substantiated" and therefore inadmissible. The Committee apparently applied, in the context of an individual communication, the narrow approach to the right to life that it had warned against in its general comment No. 6 by requiring evidence of a direct and intentional threat to the claimant's life. With respect to the right to be free from cruel, inhuman or degrading treatment, on the other hand, the Committee found a violation, affirming that the aim of article 7 is to protect both the dignity and the physical and mental integrity of the individual — an aim that equally could have been attributed to the right to life.

36. Similarly, in *Jasin v. Denmark* (see CCPR/C/114/D/2360/2014) the Committee considered the effects of homelessness in the context of a single mother facing deportation to Italy. Osman Jasin had fled for her life from a violent husband in Somalia and was rescued by the Italian Coastguard while crossing the Mediterranean. In Italy, she tried without success to find housing, lived in the street with her one-year-old daughter, sleeping in railway stations and marketplaces. Ms. Jasin and her daughter left Italy to seek asylum in the Netherlands, but were returned to Italy, where she again lived in the street with her two-year-old daughter, sleeping in railway stations during a pregnancy. She was denied medical assistance during the birth of her second child because she had no address. When she was unable to pay to renew her Italian residency permit, she travelled to Denmark. The Committee found that returning her and her children to Italy would constitute cruel and inhuman treatment because they would likely become homeless again.

37. The Committee's recognition in these cases that deportation into homelessness may constitute cruel and inhuman treatment or punishment, and that victims of homelessness in this context are entitled to a remedy, is significant. It is equally important, however, to ensure access to adjudication and remedy for those who experience the same deprivations of homelessness resulting from inaction or neglect within a State's own borders. In *A.H.G* and *Jasin*, the Committee considered the effects of widespread and systemic violations of the right to security and dignity. However, this consideration remained within the negative rights framework of prohibited "treatment" or "punishment". That framework is not conducive to hearing the substantive claim to a life of dignity, security and inclusion advanced by people with disabilities or women escaping violence, who do not see the fulfilment of their human rights merely as freedom from treatment or punishment but more fundamentally as a right to a place to live in dignity and security.

38. A similar paradox has emerged in the consideration under the International Covenant on Civil and Political Rights of homelessness resulting from evictions and the demolition of housing. The catastrophic effects of homelessness on the right to life have been addressed as human rights violations, but only in the context of interference with the home. States' positive obligations to address circumstances of grossly inadequate housing in order to protect and ensure the right to life have not been addressed. In *Georgopoulos et al. v. Greece* (see CCPR/C/99/D/1799/2008) the Committee considered the case of a Roma family living in a settlement with no access to electricity or sanitation and only two taps providing running water for the settlement. The settlement was described by the Prime Minister's Advisor on Quality of Life, as the worst in Greece and "an insult to our humanity" (ibid., para. 2.1). All attempts to improve the community's living conditions or to relocate the residents to a better settlement had been abandoned because of hostility towards the Roma. When the Georgopoulos family left their shed for a period of time to seek seasonal employment, municipal officials demolished it and prevented the construction of a replacement. The Committee held that the demolition of the authors' shed and the prevention of construction of a new home amounted to a violation of articles 17 (interference with the home), 23 (protection of the family) and 27 (right to enjoy one's culture).

39. In the context of article 17 of the International Covenant on Civil and Political Rights, prohibiting arbitrary or unlawful interference with privacy, family, home or correspondence, the Committee has recognized certain components of the right to adequate housing under the Covenant. It has found that a termination of tenancy rights due to an absence from the country is arbitrary and therefore contrary to article 17 (see CCPR/C/112/D/2068/2011) and that housing constructed without formal permission on municipal property should be recognized as a "home" and protected from unlawful interference (see CCPR/C/106/D/2073/2011). The Committee has also acknowledged the devastating consequences of eviction on families and communities and has stipulated that it should not be permitted if it will result in homelessness (ibid.). In a concurring opinion in the *Georgopoulos* case, a member of the Human Rights Committee, Fabián Salvioli, noted that the Committee's decision in that case recognized the principle of the interdependence and indivisibility of rights and was consistent with "the trend in contemporary international human rights law away from the fictitious and artificial division of rights into 'categories'" (CCPR/C/99/D/1799/2008, para. 3).

40. Yet the negative rights framework in which the Human Rights Committee has articulated the convergence between rights in the International Covenant on Civil and Political Rights and the right to adequate housing continues to restrict State accountability to situations where homelessness results from State action such as deportation or eviction. It allows States to ignore, with impunity, their obligations to address living conditions such as those in the Roma settlement in the *Georgopoulos* case, described as "an insult to our humanity". This means that a child rendered homeless by deportation or eviction is considered a victim of a violation of rights and entitled to an effective remedy, but a child born into the same circumstances of homelessness may not be. It is critical, therefore, that violations not be restricted to circumstances of direct "interference". Those whose right to life is denied by conditions of socioeconomic deprivation must also be entitled to effective remedies.

41. A refusal to hear, adjudicate and provide remedies for the category of claims to the right to life arising from systemic deprivations such as homelessness has immense consequences extending beyond the United Nations treaty monitoring system. It reinforces a negative rights practice which continues to deny access to justice for many of the most serious violations of the right to life in many jurisdictions. Often, the negative rights framework limits the types of cases for which victims are likely to have access to legal counsel, affects the kinds of arguments that lawyers are likely to advance, determines the cases courts are likely to hear and limits the remedies that might be sought and granted.

42. The negative rights framework structures political and public responses to homelessness and inadequate housing as well. When systemic homelessness and grossly inadequate housing are not considered human rights violations by courts and are not given equal attention by international human rights funders, the media, non-governmental organizations and human rights institutions, it is difficult to prompt rights-based responses at the political or societal levels. On the other hand, when courts and human rights bodies truly engage with the lived experience of those who are without homes or decent housing, this can create a mobilizing effect for rights-based advocacy in the political realm.

IV. Towards a more inclusive understanding of the right to life and the right to adequate housing

A. Draft general comment No. 36 of the Human Rights Committee on the right to life

43. The drafting by the Human Rights Committee of a new general comment (No. 36) on the right to life provides an important opportunity to reaffirm a commitment to a more inclusive understanding of the right to life. The Committee received submissions from many civil society organizations as well as from former Special Rapporteurs emphasizing the indivisibility and interdependence of the right to life with the rights to adequate housing, food, health and other economic, social and cultural rights and affirming the need for positive measures to address systemic

violations.[37] The Committee also generously set aside time to meet with the Special Rapporteur to discuss the particular relationship between the right to life and the right to adequate housing.[38]

44. The Committee's preliminary draft general comment No. 36, of October 2015, includes components that could lay the foundation for a renewed commitment to the more expansive approach and the recognition of positive obligations that was affirmed in the Committee's general comment No. 6 on the right to life. For example, the draft reaffirms that article 6 imposes obligations to adopt strategies and programmes — components of which would be longer-term — to address extreme poverty, homelessness and other systemic deprivations of the right to life. It recognizes that the right to life includes the "right to a dignified life", referring to the famous decision of the Inter-American Court on the right to life of children in street situations.[39] The draft directs States to "aim to facilitate and promote adequate conditions for a dignified existence for all individuals".

45. However, these advances towards a more inclusive paradigm are negated in other parts of the draft comment. The draft states that although article 6 imposes both short-term and long-term obligations, claims under the Optional Protocol to the Covenant can only invoke the former. Communications would be restricted to circumstances where the right to life is directly violated by acts or omissions of States, or where there is an imminent prospect of a direct violation. In other words, the draft bifurcates the right to life into two categories: justiciable rights and unenforceable policy aspirations. These restrictions would limit access to adjudication and effective remedies for those whose right to life has been violated by systemic patterns of neglect that require longer-term strategies and programmes.

B. Other treaty bodies

46. Other treaty monitoring bodies can also play a critical role in elaborating a more inclusive understanding of the right to life. The Committee on Economic, Social and Cultural Rights, for example, is responsible for interpreting and applying the right to adequate housing and other rights in the International Covenant on Economic, Social and Rights as indivisible from and interdependent with the right to life. In its general comment No. 7 on forced evictions, the Committee noted that evictions may violate the right to life[40] and in periodic reviews it has made important contributions to an understanding of the interplay between the right to adequate housing and the right to life.

47. Of particular note is the recognition by the Committee on Economic, Social and Cultural Rights that the implementation of the right to adequate housing in domestic law often relies on courts and governments recognizing that the right to life is indivisible from the right to housing and other socioeconomic rights. The

[37] Several contributions from an economic, social and cultural rights perspective by former Special Rapporteurs on the right to housing, health, water and sanitation, food and extreme poverty, and by non-governmental organizations, available from www.ohchr.org/EN/HRBodies/CCPR/Pages/WCRightToLife.aspx.

[38] Informal meeting, Geneva, 11 July 2016.

[39] Inter-American Court of Human Rights, *Case of the "Street Children" (Villagrán-Morales et al.) v. Guatemala*, judgment of 19 November 1999, para. 144.

[40] Committee on Economic, Social and Cultural Rights, general comment No. 7 (1997), para. 4.

Committee has emphasized that, in circumstances where the right to adequate housing does not enjoy explicit constitutional protection but the right to life does, governments and courts are obliged to interpret the right to life so as to ensure access to effective remedies for Covenant rights (see E/C.12/CAN/CO/6, paras. 5 and 6).

48. The Committee on Economic, Social and Cultural Rights has implicitly relied on the interdependence of the right to life and the right to adequate housing to identify deprivations of rights that must be addressed on a priority basis. The Committee has applied the concept of the "minimum core content" of rights, introduced in its general comment No. 3, to identify "minimum essential levels" of Covenant rights, such as essential foodstuffs or basic shelter. The Committee has stated that in circumstances of systemic deprivations of these essential levels, the State is "prima facie, failing to discharge its obligations under the Covenant".

49. The concept of "minimum core content" has engendered considerable debate and discussion.[41] Some courts have expressed doubts about its practical implementation.[42] Yet there is general agreement that where significant numbers of people are denied basic requirements of life, such violations demand urgent responses. In the Special Rapporteur's view, an emphasis on the intersection of the right to life and the right to adequate housing in order to identify needs that must be addressed on an urgent basis would help to clarify State obligations to address the most serious deprivations, even in circumstances of scarce resources. Such an approach does not require attempting to define universally applicable minimum requirements of adequate housing and would rely instead on a contextual assessment of lived experience in relation to core human rights values.

50. Under article 6 of the Convention on the Rights of the Child, States parties recognize the inherent right to life of every child and the obligation to ensure to the maximum extent possible the survival and development of the child. The chair of the drafting committee for the Convention explained this unique provision by noting that, while the approach to the right to life in other conventions was more negative, the committee's approach should be positive and take into account economic, social and cultural conditions.[43]

51. In its periodic reviews, the Committee on the Rights of the Child has linked the rights to life, survival and development to the right to adequate housing and to protection of children from evictions, particularly if they may lead to homelessness (see CRC/C/IDN/CO/3-4).[44] The Committee has also addressed the particular vulnerability to violations of the right to life and the high suicide rate of children in street situations (see CRC/C/FJI/CO/2-4). The Committee has identified the right to

[41] Sandra Liebenberg, "Socioeconomic rights: revisiting the reasonableness review/minimum core debate", in Stu Woolman and Michael Bishop, eds., *Constitutional Conversations* (Pretoria University Law Press, 2008).

[42] Constitutional Court of South Africa, *Minister of Health and Others v. Treatment Action Campaign and Others*, judgment of 5 July 2002.

[43] Sharon Detrick, *A Commentary on the United Nations Convention on the Rights of the Child* (The Hague, the Netherlands, Martinus Nijhoff Publishers, 1999).

[44] CRC/C/IDN/CO/3-4.

life as a key provision in the draft general comment on children in street situations.[45]

52. The right to life and dignity are core values informing the Convention on the Rights of Persons with Disabilities. Article 3 indicates that the purpose of the Convention is to promote respect for the inherent dignity of person with disabilities. Article 10 makes specific reference to positive obligations with respect to the right to life. It provides that States parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others. All of the articles in the Convention must be interpreted in a manner consistent with those core values, including article 9 (accessibility), article 11 (situations of risk and humanitarian emergencies), article 19 (living independently and being included in the community) and article 28 (Adequate standard of living and social protection).

53. The Committee on the Rights of Persons with Disabilities has only started to grapple with communications addressing issues of grossly inadequate housing, lack of support for community living, institutionalization and lack of accessible housing which characterize the housing circumstances of millions of people with disabilities. In its periodic reviews, however, the Committee has emphasized the importance of States' obligations to take positive steps to implement inclusive, effective strategies to realize the right to housing and social protection and to address the particular issues affecting women, migrants and young people with disabilities.

54. Article 9 of the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families affirms that the right to life of migrant workers and members of their families shall be protected by law. The Committee on the Rights of Migrant Workers drew attention to violations of the right to life in the context of forced evictions of migrants from a public park in Buenos Aires which resulted in two deaths (see CMW/C/ARG/CO/1, para. 19).

55. The Committee on the Elimination of Discrimination against Women has had the opportunity to consider in its jurisprudence the obligation of States parties to address threats to women linked to lack of housing. In *Ms. A.T. v. Hungary*, the Committee considered the circumstances of a woman with two children who was viciously beaten by her husband and who feared for her life. She was unable to move to a shelter because there were no spaces available to accommodate her child, who had a disability. The domestic courts refused to grant A.T. possession of her home, in consideration of the property rights of her husband. The Committee held that women's human rights to life and to physical and mental integrity could not be superseded by other rights, including the right to property and the right to privacy. The Committee recommended that Hungary take positive measures to remedy the situation of A.T., to ensure better protection for women more generally and to ensure that A.T. was given a safe home in which to live with her children, as well as child support, legal assistance and reparation for the violations of her rights.[46]

56. Another rich source for understanding the right to life and the right to adequate housing in international human rights law is article 7 of the United Nations

[45] Committee on the Rights of the Child, "Outline general comment on children in street situations" available from www.ohchr.org/EN/HRBodies/CRC/Pages/ChildrenInStreetSituations.aspx.

[46] Committee on the Elimination of Discrimination against Women, communication No. 2/2003, *Ms. A. T. v. Hungary*, 26 January 2005.

Declaration on the Rights of Indigenous Peoples. It affirms that indigenous individuals "have the rights to life, physical and mental integrity, liberty and security of person" and that indigenous peoples have "the collective right to live in freedom, peace and security as distinct peoples". The development and application of these rights has the potential to enhance the understanding of the social dimensions of the right to life and the interplay between the collective and individual dimensions of that right; it may also prompt a response to violations of rights to lands, territories or resources.

C. Regional jurisprudence

57. Through its jurisprudence over the past two decades, the Inter-American Court of Human Rights has developed the concept of *vida digna* (the right to a dignified life) in the context of article 4 (right to life) of the American Convention on Human Rights. This concept was first referenced in the Court's landmark decision in *"Street Children" (Villagrán Morales et al.) v. Guatemala*,[39] and is, perhaps, nowhere else more eloquently articulated:

> The right to life is a fundamental human right, and the exercise of this right is essential for the exercise of all other human rights. If it is not respected, all rights lack meaning. Owing to the fundamental nature of the right to life, restrictive approaches to it are inadmissible. In essence, the fundamental right to life includes not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence. States have the obligation to guarantee the creation of the conditions required in order that violations of this basic right do not occur and, in particular, the duty to prevent its agents from violating it.

58. The Court has applied the *vida digna* principle in a number of other contexts, including indigenous peoples' claims to their ancestral lands. For example, in *Sawhoyamaxa v. Paraguay*, an indigenous community was displaced from its lands and left to live on the side of a road. Without access to adequate housing and basic services, including potable water, sanitation and health care, many died of preventable illnesses associated with displacement and homelessness. The court found a violation of the right to life in the light of the physical conditions in which the members of the Sawhoyamaxa Community had been living, and still lived as well as the death of several persons due to those conditions.[47]

59. Similar approaches have been adopted in the African system. In the Pretoria Declaration on Economic, Social and Cultural Rights States parties to the African Charter on Human and Peoples' Rights agreed that socioeconomic rights, including the right to housing, must be read into the Charter in the light of references to the right to life, stating:

> The social, economic and cultural rights explicitly provided for under the African Charter, read together with other rights in the Charter, such as the right to life and respect for inherent human dignity, imply the recognition of

[47] Inter-American Court of Human Rights, *Case of the Sawhoyamaxa Indigenous Community v. Paraguay*, judgment of 29 March 2006.

other economic and social rights, including the right to shelter, the right to basic nutrition and the right to social security.[48]

The Pretoria Declaration drew on the decision of the African Commission on Human and Peoples' Rights in the case of *Social and Economic Rights Action Center and Center for Economic and Social Rights v. Nigeria*. The Commission found that environmental degradation had "made living in Ogoniland a nightmare" and that destruction of land and farms "affected the life of the Ogoni society as a whole". The Commission concluded that "the most fundamental of all human rights, the right to life, has been violated".[49]

60. The European Committee of Social Rights has consistently emphasized that the "right to shelter is closely connected to the right to life and to the right to respect of every person's human dignity".[50] In this context, it has not only addressed violations of rights linked to State action, such as evictions, but has issued far-reaching decisions regarding systemic violations and affirmed obligations to develop and implement national strategies and legislation to address homelessness and inadequate housing.[51]

61. The European Court of Human Rights has adopted a somewhat more restrictive approach to the right to life. This may be attributable to the fact that it is bound by the wording of article 2 of the European Convention on Human Rights, which refers to deprivations of the right to life which are intentional and suggests that the provision primarily addresses the use of force by the State. Even within these confines, however, the Court has affirmed that article 2 ranks as one of the most fundamental provisions in the Convention and "enjoins the State not only to refrain from the intentional and unlawful taking of life, but also to take appropriate steps to safeguard the lives of those within its jurisdiction".[52] In the case of *Öneryıldız v Turkey*[53] the Court found that the failure of the authorities to do everything within their power to protect inhabitants of an informal settlement near a garbage dump from the immediate and known risk of a methane gas explosion gave rise to a violation of the right to life.

D. Domestic jurisprudence

62. Experiences at the domestic level suggest that the right to adequate housing is most effectively claimed and adjudicated when it is linked to the right to life and

[48] African Commission on Human and Peoples' Rights, Pretoria Declaration on Economic, Social and Cultural Rights in Africa (2004), para. 10.

[49] African Commission on Human Rights and People's Rights, *Social and Economic Rights Action Center and Center for Economic and Social Rights v. Nigeria*, 27 October 2001, para. 67.

[50] European Committee of Social Rights, *European Roma and Travellers Forum v. France*, complaint No. 64/2011, decision on the merits, 24 January 2012, para. 126, and *Conference of European Churches (CEC) v. Netherlands*, complaint No. 90/2013, 21 January 2013.

[51] See, for example, European Committee of Social Rights, *European Federation of National Organisations Working with the Homeless (FEANTSA) v. France*, complaint No. 39/2006, decision on admissibility, 19 March 2007, and *European Roma Rights Centre v. Bulgaria*, complaint No. 31/2005, decision on the merits, 18 October 2006.

[52] European Court of Human Rights, *Case of L.C.B. v. the United Kingdom* (14/1997/798/1001), judgment of 9 June 1998, para. 36.

[53] European Court of Human Rights, *Öneryildiz v. Turkey*, application No. 48939/99, judgment of 30 November 2004.

other core human rights principles. Even in jurisdictions in which the right to adequate housing is recognized as a self-standing right, the effective claiming and adjudication of this right has usually relied on recognition of its inherent connection to dignity and to the right to life. The Constitutional Court of South Africa, for example, abandoned a deferential approach to adjudication and committed itself to assessing the reasonableness of positive measures taken by governments when it was confronted with the "intolerable conditions" in which Irene Grootboom and her community were living (under plastic tarpaulins on a sports field with no water or sanitation), which were in stark contrast to the constitutional values of dignity, equality and freedom.[54]

63. Despite the fact that the Constitution of India separates the right to life as a justiciable right from the right to housing as a policy directive, the Supreme Court of India recognized the impossibility of separating the two rights as early as 1981, stating:

> The right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessaries of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings.[55]

This case was followed by a number of crucial decisions, including in the *Olga Tellis* case, in which it was explicitly recognized that the right to livelihood forms an integral part of the right to life; the *Shantistar Builders Society* case, in which it was held that the right to life "would take within its sweep ... a reasonable accommodation to live in";[56] and *Chameli Singh v. State of U.P.*, in which the state's obligations under the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Political Rights were considered and it was noted that "[the] right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right".[57]

64. There is a unique quality of empathy, humanity and commitment to justice in some of the judgments of the Supreme Court of India, as it has engaged directly with the lived realities of claimants in order to consider whether their right to life has been violated. By interpreting the right to life as including the right to housing, courts have responded to social movements and at the same time have acted as a catalyst for political inclusion. Those judgments are striking for their ability to bring to life the central ambition of the Charter of the United Nations, the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action.

65. The new Constitution of Kenya (2010) includes both the right to life and the right to accessible and adequate housing as justiciable rights. Kenyan courts have affirmed an integrated understanding of the relationship between the two rights under the new Constitution. In the *Garissa* case, for example, a claim was filed on

[54] Constitutional Court of South Africa, *Government of the Republic of South Africa and Others v. Grootboom and Others*, judgment of 4 October 2000.

[55] Supreme Court of India, *Francis Coralie Mullins v. the Administrator, Union Territory of Delhi and Others*, judgment of 13 January 1981.

[56] Supreme Court of India, *Shantistar Builders v. Narayan Khimalal Totame*, (1990) 1 SCC 520, para. 9.

[57] Supreme Court of India, *Chameli Singh v. State of U.P.*, 1996 (2) SCC 549, judgment of 15 December 1995.

behalf of 1,122 people who were brutally evicted from land they had occupied since the 1940s. The High Court observed that the Constitution of Kenya recognizes all human rights as justiciable, noting that "people living without the basic necessities of life are deprived of human dignity, freedom and equality".[58] The court found that the evictions violated the rights to life and to adequate housing and issued an injunction compelling the State to return the claimants to their land and to reconstruct their homes or provide alternative housing and other facilities. Similarly, in the *Santrose Ayuma* case, another large-scale eviction, the High Court found that evictions carried out without meaningful engagement with those affected and without provision of alternative shelter violated the rights to life and to adequate housing. The court insisted that resettlement plans be consistent with the right to a dignified life.[59]

66. The Constitutional Court of Colombia has also made significant advances in the understanding of the connection between the right to life and the right to adequate housing. In its historic T-025 decision on the constitutional obligation to address the needs of internally displaced persons, the Constitutional Court affirmed that the right to life requires positive measures, many of which can only be implemented over a period of time, to address the needs of internally displaced persons in the fields of housing, access to productive projects, health care, education and humanitarian aid.[60]

V. The way forward: conclusions and strategic recommendations

67. Advances in the understanding of the right to life and the right to adequate housing by regional bodies and domestic courts provide a solid platform for a reunified approach to these rights at the international level, consistent with the principles of universality, indivisibility and interdependence. More importantly, rights holders living the connection between the right to life and the right to adequate housing must have their claims heard and responded to. The international human rights system must lead, not resist, the move towards a more inclusive understanding of these rights.

68. The starting point for understanding the scope of the right to life should be what rights holders are entitled to, not the cause of the deprivation. Homelessness and grossly inadequate housing may be the result of actions leading to eviction and deportation, but equally may result from inaction — a failure to address long-term systemic patterns of social exclusion and deprivation. Nevertheless, the deprivation experienced is essentially the same: preventable illnesses, a shortened lifespan and deprivation of dignity and security.

[58] High Court of Kenya, *Ibrahim Sangor Osman and Others v. the Hon. Minister of State for Provincial Administration and Internal Security and Others*, constitutional petition No. 2 of 2011, judgment of 16 November 2011.

[59] High Court of Kenya, *Satrose Ayuma and Others v. the Registered Trustees of the Kenya Railways Staff Retirement Benefits Scheme and Others*, petition No. 65 of 2010, judgment of 26 August 2013.

[60] Constitutional Court of Colombia, decision T-025 of 2004, available in Spanish from www.corteconstitucional.gov.co/relatoria/2004/t-025-04.htm.

69. Assessing whether States have violated rights in these circumstances does not only mean considering whether actions of States caused a deprivation of life but also, and more fundamentally, whether there are actions which States can reasonably be expected to take to address such deprivations. Some violations of the rights to life and adequate housing may be subject to immediate remedy; others may require longer-term solutions but, regardless, access to justice must be ensured and the rights to life and adequate housing must be realized.

70. The narrowing of the right to life to a negative rights framework has deprived millions of already disadvantaged individuals of the full protection of this core right. In many domestic contexts the right to housing may not be enshrined in law and cannot be claimed directly, whereas the right to life appears in most constitutions. In this context, a narrow interpretation of the right to life may prevent someone who is homeless or suffering severe housing inadequacy from making any human rights claim whatsoever. On the other hand, where the right to adequate housing is explicitly protected as a self-standing constitutional right, it is more effectively enforced by courts when connected to the right to life. Making this connection allows courts to better assess whether adequate resources have been allocated and reasonable measures taken in accordance with core human rights values.

71. Fifty years after the separation of international human rights into the two covenants, the United Nations is well situated to retrieve a unified and inclusive understanding of human rights and to affirm that the right to life includes the right to a place to live in dignity and security, free of violence. The Human Rights Committee has the opportunity to affirm this integrated understanding of the right to life in the ongoing preparation of its general comment No. 36. The Committee on Economic, Social and Cultural Rights has the opportunity under its Optional Protocol to highlight the connection between the rights to life and adequate housing in lived experience. Other treaty monitoring bodies have the opportunity to ensure that the understanding of the rights to life and adequate housing is informed by the experiences and unique claims of people with disabilities, women, children, migrants, racial minorities and indigenous peoples, among others.

72. The true reunification of the right to life and the right to adequate housing, however, can only be accomplished by a global response, led by States, including their legislatures and courts, by human rights institutions and by civil society.

73. States must address issues of inadequate housing and homelessness and name them as core human rights issues linked to the right to life — in domestic law and policy and in international initiatives, including the 2030 Agenda for Sustainable Development and the New Urban Agenda. States must also conduct a thorough examination of legislation, court practice and public policies to ensure that the right to life is not restricted to a negative rights framework. States must formally recognize that the right to life includes the right to a place to live in dignity and security, free of violence, and ensure access to justice for all victims of violations of the right to life, including those linked to homelessness and inadequate housing. Governments must ensure the effective integration of housing policy and social protection with human rights frameworks, mechanisms and institutions, so that housing policy is properly

framed around the implementation of core human rights obligations, and access to effective remedies is incorporated in programme design and implementation.

74. **National human rights institutions should jointly commit themselves to renouncing the false division between categories of rights and review their mandates and programmes to ensure that full attention is given to violations of the right to life linked to socioeconomic deprivation, including homelessness and inadequate housing.**

75. **Human rights organizations and human rights funders should conduct audits of their priorities and programmes to assess whether adequate attention and resources have been provided to those whose right to life and right to housing have been violated. More attention should be paid to an assessment of whether States have taken reasonable measures to respond to systemic violations of the right to housing and the right to life. Strategic litigation and other initiatives should be developed and funded to advance, on a systematic basis, better recognition, advancement and protection of the rights claims of those living in extreme poverty and in grossly inadequate housing, or who are homeless.**